

**U.S. Patent Application No. 10/575,768  
Attorney Docket No. 10191/4217  
Response to Office Action of July 7, 2009**

**REMARKS**

Claims 16 to 18 are canceled without prejudice, claim 30 is added, and therefore claims 14, 15, 19 to 21, and 27 to 30 are now pending and being considered in the present application (claims 22 to 26 were previously *withdrawn* in response to a restriction requirement).

In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Claims 14 to 21 and 27 to 29 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,253,123 to Schramm et al., (“Schramm”).

To reject a claim under 35 U.S.C. § 102(b), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the claimed subject matter of the claims, as discussed herein. (*See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (*See M.P.E.P. § 2112; emphasis in original; and see Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'l. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic. Accordingly, it is respectfully submitted that any anticipation rejection premised on the inherency doctrine is not sustainable absent the foregoing conditions.

Claims 16 to 18 have been canceled herein without prejudice, thereby rendering moot the rejections of claims 16 to 18.

Regarding independent claim 14, while the rejection may not be agreed with, to facilitate matters, claim 14 has been rewritten to include the features of canceled claims 16 and 17. Claim 14, as currently presented, includes the features of “*estimating information on a center of gravity* of the vehicle, wherein the rollover stabilization algorithm is executed as a function of the vehicle mass and the information on the center of gravity of the vehicle, and the *information*

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*on the center of gravity of the vehicle is derived from an estimated characteristic speed.”* The Schramm reference does not identically disclose (nor even suggest) the claim feature of “estimating information on a center of gravity of the vehicle”, as provided for in the context of the presently claimed subject matter.

As to the Schramm reference, the cited sections relied upon by the Office Action merely refer to *displacement* of the center of gravity and not estimating the center of gravity itself. For example, the Schramm reference states that “the torsion quantity describes the ... the *displacement* of the *center of gravity* of the vehicle.” (Schramm, column 3, lines 32 to 35.) It is respectfully submitted that an estimate of the *displacement* of the center of gravity is not identical to estimating the center of gravity itself. Accordingly, the Schramm reference does not identically disclose (nor suggest) the feature of estimating information on a center of gravity as provided for in the context of claim 14.

As further regards claim 14, it includes the feature in which “the information on the center of gravity of the vehicle is derived from an estimate characteristic speed.” Any review of the Schramm reference makes plain that there is not even a discussion of *deriving a center of gravity*, let alone from a *characteristic speed*, as provided in the context of the claimed subject matter.

In view of the foregoing, it is respectfully submitted that claim 14 is allowable, as are its dependent claims 15, 19 to 21, and 27 to 29. Accordingly, withdrawal of the anticipation rejections is respectfully requested.

New claim 30 does not add new matter and is supported by the application, including the Specification, as originally filed. Claim 30 includes features like those of claim 14 and it is therefore allowable for essentially the same reasons as claim 14. Further, claim 30 includes the feature in which the center of gravity of the vehicle is ascertained from a ratio of contact patch forces of opposite wheels during cornering. Any review of the Schramm reference makes plain that this feature is not disclosed or suggested. Accordingly, claim 30 is allowable.

In view of the foregoing, pending and considered claims 14, 15, 19 to 21, and 27 to 30 are allowable.

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**CONCLUSION**

In view of the foregoing, it is respectfully submitted that pending and considered claims 14, 15, 19 to 21, and 27 to 30 are allowable. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,  
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Dated: 8/9/09

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